

ORIGINAL

FILED

April 29 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 10-0017

STATE OF MONTANA

Plaintiff and Appellee,

v.

BEVIN TODD CHIPPEWA,

Defendant and Appellant.

FILED

APR 29 2010


Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

MOTION FOR EXTENSION OF TIME

COMES NOW, Colin M. Stephens, counsel of record for Defendant and Appellant, and respectfully requests an Extension of Time until June 5, 2010 in which to prepare, file and serve the Appellant's brief in the above entitled matter. I, Colin M. Stephens, request an extension of time because I have not been able to obtain the file of Public Defender Jeffery Olson, or the transcript of the settlement of jury instructions which are critical to the Defendant and Appellant's appeal. See attached affidavit. Opposing counsel has been contacted concerning this motion and does not object.

Dated this 28th day of April, 2010.

COLIN M. STEPHENS
Smith & Stephens, P.C.
315 West Pine
Missoula, MT 59802

By: 
COLIN M. STEPHENS

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and accurate copy of the Motion for Extension of Time to be mailed to:

JOHN PARKER
Cascade County Attorney
121 Fourth Street North
Great Falls, MT 59401

STEVE R. BULLOCK
Montana Attorney General
MARK MATTIOLI
Assistant Attorney General
215 North Sanders
Helena, Mt 59620-1401

BEVIN CHIPPEWA #40815
Montana State Prison
700 Conley Lake Rd.
Deer Lodge MT 59722

DATED: _____

04/28/10

 _____

FILED

APR 29 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

STATE OF MONTANA)
 :SS.
COUNTY OF MISSOULA)

I, Colin M. Stephens, being first duly sworn upon my oath, depose and state as follows:

1. I am a licensed, practicing attorney in the State of Montana, and am currently employed by the Office of State Public Defender, Appellate Defender Office, as a contract attorney.
2. In my capacity as a contract attorney, I have been assigned to handle the above-entitled matter.
3. The Appellant's opening brief was first due April 5, 2010. The brief is presently due on May 5, 2010.
4. As shown below, I have exercised diligence and have a substantial need for the extension.
5. One issue in this appeal depends upon obtaining the file of Public Defender Jeffery Olson who represented the Defendant-Appellant at trial.
6. I requested the file April 23, 2010, and, as of yet, still have not heard back from Mr. Olson. It is unlikely that I will receive the file with enough time to meet the current due date of May 5, 2010.
7. Furthermore, after speaking with Mr. Olson, an additional issue has

surfaced which requires the transcript of the settlement of jury instructions in the above-entitled matter. The transcript of the settlement of jury instructions was not included in the transcript on appeal. Mr. Olson maintains that he did not waive the Defendant-Appellant's right to have the settlement of jury instructions recorded, and that the Court Reporter misplaced the transcript. As of yet, we have been unable to contact the Cascade County District Court Reporter to find the missing portion of the transcript.

8. Therefore, for the above stated reasons and out of an abundance of caution, I move for an extension of time.

9. I will work diligently to complete the matter in the time requested.

10. Opposing counsel has been contacted concerning this motion and does not object.

9. Further your affiant sayeth naught.

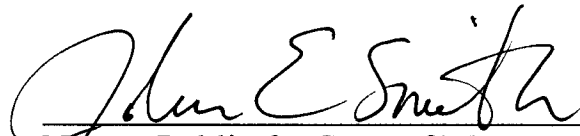
DATED: 4/28/2010



COLIN M. STEPHENS

SUBSCRIBED AND SWORN TO before me the undersigned Notary Public this 28th day of April 2010.

(SEAL)



Notary Public for State of Montana
Residing in Missoula, MT

My Commission Expires: 5-18-10